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 10 Boston Scientific Corporation  
 and Guidant LLC  
 11 (formerly doing business as Guidant Corporation)

12 UNITED STATES DISTRICT COURT  
 13 CENTRAL DISTRICT OF CALIFORNIA

14 ROBERT ERICKSON,

15 Plaintiff,

16 vs.

17 BOSTON SCIENTIFIC  
 CORPORATION; GUIDANT  
 18 CORPORATION;

19 AND DOES 1 through 100, inclusive. ,

20 Defendant.  
 21  
 22  
 23

Case No. SACV10-698 AG (ANx)

Judge: Hon. Andrew J. Guilford  
 Dept.: 10D

**JUDGMENT**

Complaint filed: April 28, 2010

Date: December 12, 2011  
 Time: 10:00 a.m.  
 Dept.: 10D

24 This matter came on for hearing before the Court on December 12, 2011, the  
 25 Honorable Andrew J. Guilford, District Judge presiding, on a Motion for Summary  
 26 Judgment filed by defendants Boston Scientific Corporation and Guidant LLC  
 27 (formerly doing business as Guidant Corporation), (collectively "Defendants"). The  
 28

1 evidence presented having been fully considered, the issues having been duly heard,  
2 and a decision having been duly rendered granting in part the Motion for Summary  
3 Judgment,

4 IT IS ORDERED AND ADJUDGED that

5 1. Plaintiff's claims related to his VIGOR DR, Model 1232, serial number  
6 203771 ("VIGOR 1232") and INSIGNIA Plus DR, Model 1298, serial number  
7 101152 ("INSIGNIA 1298") pacemakers are time-barred under California's two-year  
8 statute of limitations. Code of Civ. Proc. § 335.1.

9 2. Under California law, the "discovery rule" rule delays accrual of a cause  
10 of action, but only until a plaintiff "suspects someone has done something wrong" to  
11 him. *Jolly v. Eli Lilly & Co.*, 44 Cal. 3d 1103, 1110-12, 245 Cal. Rptr. 658, 751 P.2d  
12 923 (1988).

13 3. Plaintiff's unequivocal testimony, coupled with statements in his  
14 Complaint, make it clear that he suspected or should have suspected no later than  
15 February 17, 2005, that something was allegedly wrong with his VIGOR 1232 and  
16 INSIGNIA 1298 pacemakers at issue. Thus, Plaintiff's claims related to these two  
17 pacemakers at issue accrued no later than February 17, 2005.

18 4. Plaintiff's Complaint was filed on April 28, 2010, more than five years  
19 after his claims related to the VIGOR 1232 and INSIGNIA 1298 pacemakers accrued,  
20 and such claims are time-barred by the applicable two-year statute of limitations.

21 5. All claims related to the VIGOR 1232 and INSIGNIA 1298 pacemakers  
22 be dismissed on the merits as to Defendants.

23  
24 Dated: January 11, 2012



25 Andrew J. Guilford

26 United States District Court Judge  
27  
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